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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company.	))))	Case No. 10-2929-EL-UNC

COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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Samuel C. Randazzo (Counsel of Record)
Joseph E. Oliker
McNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
sam@mwncmh.com
joliker@mwncmh.com

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Attorneys for Industrial Energy Users-Ohio

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On November 1, 2010, AEP Electric Power Service Corporation ("AEP"), on behalf of Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPCo") (collectively "AEP-Ohio"), filed an application ("Application") with the Federal Energy Regulatory Commission ("FERC") in FERC Docket No. ER11-1995. On November 24, 2010, AEP re-filed its Application at the direction of FERC, in FERC Docket No. ER11-2183-000. The Application proposes to change the basis for establishing prices that drive compensation for capacity by adopting formula rate templates and accounting data which AEP-Ohio proposes to use to periodically calculate new prices for capacity. In its Application, AEP asserted that its proposal to change the basis for establishing prices for capacity is consistent with Section D.8 of Schedule 8.1 of the Reliability Assurance Agreement ("RAA") with PJM Interconnection ("PJM") (discussed below).

On December 8, 2010, the Public Utilities Commission of Ohio ("Commission") issued an Entry in this proceeding ("December 8 Entry") finding that a review of the proposed changes to AEP-Ohio's capacity charges was appropriate. The December 8 Entry invites public comments from interested parties as part of this review. The December 8 Entry seeks public comment on (1) what changes to the current state mechanism are appropriate to determine AEP-Ohio's fixed resource requirement ("FRR") capacity charges to Ohio competitive retail electric service ("CRES") suppliers; (2) the degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Commission or other capacity charges; and (3) the impact of AEP-Ohio's capacity charges upon CRES suppliers and retail competition in Ohio.

Pursuant to the December 8 Entry, IEU-Ohio[1] submits its comments for the Commission's consideration.

I. INTRODUCTION AND BACKGROUND

AEP's Application includes the following documents:

- A letter of transmittal ("Transmittal Letter");
- The Ohio Power Company Capacity Compensation Formula template (Ohio Power Company FERC Rate Schedule No. 101);
- The Columbus Southern Power Company Capacity Compensation Formula template ("Columbus Southern Power Company FERC Rate Schedule No. 39");
- Attachment A, which populates the Capacity Compensation Formulas with OPCo and CSP Form 1 cost data to illustrate the implementation of the formulas;
- Attachment B, which compares OPCo and CSP actual compensation under the current rates to the compensation that OPCo and CSP would receive under the applicable Capacity Compensation Formula; and
- Attachment C, which is a copy of Section D of Schedule 8.1 of the PJM Reliability Assurance Agreement.

AEP's Application is interrelated to the regional electricity market operated by PJM which includes day-ahead and real time organized markets for energy and ancillary services. PJM also operates an organized capacity market as an integral part

[1] IEU-Ohio is a not-for-profit association that advocates on behalf of Ohio commercial and industrial customers on issues that affect the price and availability of energy. IEU-Ohio is also a CRES supplier as well as a PJM curtailment services provider.

of its regional electricity market. The establishment and operation of PJM's organized markets are subject to FERC's jurisdiction.

The rules for PJM's organized capacity market are generally referred to as the Reliability Pricing Model ("RPM") and embody, among other things, PJM's open access transmission tariff. Among other things, the RPM rules require load-serving entities ("LSEs") to obtain or arrange for adequate capacity (in the form of qualifying generation or demand response resources) to meet PJM's forecasted peak demand, including a reserve margin. RPM features a centralized capacity auction in which generation and demand response resources are cleared or matched to forecasted load based upon prices offered by qualifying resources three years prior to a delivery year, which is a twelve-month period from June through May.

RPM provides for an alternative method for LSEs to satisfy their capacity or resource adequacy obligation, known as the FRR Alternative. The FRR Alternative allows an LSE to submit an FRR Capacity Plan with a fixed capacity resource requirement rather than satisfying the capacity resource obligation through PJM's RPM capacity auction process. The RAA includes the rules that an LSE must satisfy under an FRR Alternative. Section D.8 of the RAA provides, in relevant part:

> In a state regulatory jurisdiction that has implemented retail choice, the FRR Entity must include in its FRR Capacity Plan all load, including expected load growth, in the FRR Service Area, notwithstanding the loss of any such load to or among alternative retail LSEs. In the case of load reflected in the FRR Capacity Plan that switches to an alternative retail LSE, **where the state regulatory jurisdiction requires switching customers or the LSE to compensate the FRR Entity for its FRR capacity obligations, such state compensation mechanism will prevail**. In the absence of a state compensation mechanism, the applicable alternative retail LSE shall compensate the FRR Entity at the capacity price in the unconstrained portions of the PJM Region, as determined in accordance with Attachment DD to the PJM Tariff, provided that the FRR Entity may, at any time, make a filing with FERC under Sections 205 of the Federal Power Act proposing to change the basis for

compensation to a method based on the FRR Entity's cost or such other basis shown to be just and reasonable, and a retail LSE may at any time exercise its rights under Section 206 of the FPA.[2]

The AEP-Ohio companies currently operate under an FRR Alternative and were doing so prior to the time that CSP and OPCo filed an application for approval of the electric security plan ("ESP") which the Commission ultimately modified and approved. In its Application, AEP alleged that Ohio has not established a compensation mechanism for capacity sales.[3]

Beginning in June 2007 when RPM was implemented, Ohio CRES suppliers were charged for capacity based upon the prevailing RPM auction price for capacity in the unconstrained portion of the PJM region.[4] That approach is still in effect.

AEP has requested that FERC approve the formula rates proposed by AEP-Ohio as the basis for establishing the capacity charges that CSP and OPCo would levy upon CRES suppliers in Ohio. The proposed move from a clearing price approach to a formula rate approach would significantly increase capacity charges to CRES suppliers – on the order of 49% to 98%. Inevitably, CRES suppliers will seek to pass through those capacity cost increases to the retail customers they serve, including several IEU-Ohio member companies.

[2] PJM Open Access Transmission Tariff, Attachment D, Schedule 8.1 ("Fixed Resource Requirement Alternative") (emphasis added).

[3] Transmittal Letter at 3.

[4] *Id.*

II. COMMENTS

A. AEP-Ohio is Already Receiving Compensation for Capacity Related Costs.

The relevant provisions of PJM's RAA provide that a CRES supplier may be required to provide compensation to an FRR entity under some circumstances. However, the imposition of capacity charges on a CRES supplier is limited to those instances in which the relevant state commission has not already made a determination regarding the compensation that the switching customer or its CRES supplier pays to the FRR entity for its FRR capacity.

At the specific request of AEP-Ohio, the Commission provided a mechanism to compensate AEP-Ohio for the capacity which AEP-Ohio claimed is required to stand ready to serve customers in Ohio.

As indicated above, AEP-Ohio currently operates under an ESP approved by the Commission pursuant to Sections 4928.141 and 4928.143, Ohio Revised Code. To approve an ESP, the Commission must find that the ESP is more favorable in the aggregate than a market rate offer ("MRO").[5] Under either an MRO or ESP alternative, retail rates in Ohio are market-based rates.[6]

As part of its approved ESP, AEP-Ohio requested authorization to assess a non-bypassable charge to be collected as a provider of last resort ("POLR") rider.[7] AEP-Ohio argued that this charge was appropriate given AEP-Ohio's statutory obligation to

[5] Section 4928.143(C)(1), Ohio Revised Code.

[6] In a January 11, 2010 presentation to the Ohio Retail Brokers, AEP stated (at page 7) that Ohio electric generation rates are set by the Commission according to SB221 and are non-cost based. The presentation is available at AEP's website at http://www.aep.com/investors/present/documents/RetailBrokerLuncheon.pdf (last visited January 4, 2011).

[7] AEP's prior rate plan which was in effect from 2006 through 2008 also included a POLR charge.

act as the default supplier of all competitive services necessary to maintain essential electric service to consumers, including a **firm** supply of electric generation service.[8] AEP-Ohio's proposed POLR charge was based on its quantification of the market-based price that AEP-Ohio customers should pay to compensate AEP-Ohio for default service.[9] More specifically, AEP-Ohio claimed that the POLR charge was required to fairly compensate AEP-Ohio for the risks created by customers remaining on the Standard Service Offer ("SSO") and returning to AEP-Ohio's SSO after shopping.[10] AEP-Ohio's witness on this issue testified that AEP-Ohio's default supply obligation required AEP-Ohio to provide both capacity and energy on short notice.[11] For example, AEP-Ohio's witness testified that:

> There is a definite and significant cost associated with providing this flexibility [to accommodate returning customers]. In addition to the challenges of providing **capacity** and energy on short notice, the Companies would provide service to returning customers at the SSO rate (even though they are likely to be returning because market prices exceed the SSO).[12]

In describing the components of the POLR charge, the AEP-Ohio witness further testified that the POLR charge reflects "the market price of the underlying asset" as reflected in the competitive benchmark prices discussed in relation to the MRO.[13] The

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[8] *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, PUCO Case Nos. 08-917-EL-SSO, *et al.*, Opinion and Order at 38 (March 18, 2009) ("*ESP Order*").

[9] *Id.* Section 4928.141, Ohio Revised Code, specifically states that the default service obligation includes a firm supply of electric generation service. As the Commission knows, it is not possible to provide a firm supply of electric generation service unless the supplier holds adequate capacity resources.

[10] *Id.*

[11] *Id. at 39;* Cos. Ex. 2-A at 26 (Direct Testimony of J. Craig Baker).

[12] Cos. Ex. 2-A at 26.

[13] *Id.* at 31-32.

same witness also testified that the competitive benchmark prices discussed in relation to the MRO for the 2009-2011 time period include an allowance for PJM capacity obligations, which "**was derived from the PJM Reliability Pricing Model (PJM Capacity Auction) results for the relevant time period.**"[14]

Mr. Baker also testified during his cross examination by IEU-Ohio that the prevailing auction prices for capacity under PJM's RPM were used as a proxy for the capacity compensation component built into the POLR charge because there was no explicit price for capacity under the FRR option selected by AEP-Ohio:

> Q. Mr. Baker, page 11, lines 13 and 14, one of the inputs that you used for purposes of pricing the POLR is the PJM Reliability Pricing Model, the Capacity Auctions. I assume there you're talking about the RPM.
>
> * * *
>
> A. The section we're looking at was to come up with a benchmark price. This section was for the JCB-2, but it is the price that we then carried over into the calculation of POLR.
>
> Q. Right. You're using -- for purposes of developing the input value for this component, you're using PJM's RPM, correct?
>
> A. That's correct.
>
> Q. You're not using a value for FRR.
>
> A. That is correct, because there is not a -- we don't have a value for FRR. And what we're trying to do is look at what the competitive price would be, and the competitive supplier is likely to be an RPM participant given the fact that we're the only FRR -- major FRR entity at this time.[15]

[14] *Id.* at 10-11 (emphasis added).

[15] *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, PUCO Case Nos. 08-917-EL-SSO, *et al.*, Tr. Vol. XI at 76-77 (December 17, 2008).

Consequently, AEP-Ohio proposed to calculate the POLR charges applicable to shopping customers based on, among other things, the price of capacity as determined in the RPM auctions.

Over the objections of customer representatives, the Commission approved AEP-Ohio's POLR proposal, with only minor adjustment to the level proposed by AEP-Ohio:

> Therefore, based on the record before us, **we conclude that the Companies' proposed ESP should be modified such that the POLR rider will be based on the cost to the Companies to be the POLR and carry the risks associated therewith, including the migration risk.** The Commission accepts the Companies' witness' quantification of that risk to equal 90 percent of the estimated POLR costs, and thus, finds that the POLR rider shall be established to collect a POLR revenue requirement of $97.4 million for CSP and $54.8 million for OP. Additionally, the POLR rider shall be avoidable for those customers who shop and agree to return at a market price and pay the market price of power incurred by the Companies to serve the returning customers. Accordingly, the Commission finds that the POLR rider, which is avoidable, should be approved as modified herein.[16]

In short, the Commission approved POLR charges, applicable to all customers that may return to AEP-Ohio for default service that includes a compensation allowance for capacity tied to the market-clearing price for capacity as determined in the RPM auctions. AEP-Ohio has never challenged or so much as questioned this aspect of the ESP Order, and arguments suggesting the POLR charges were never intended to provide AEP-Ohio with compensation for capacity costs are, simply put, an untimely collateral attack on the Commission's decision in the AEP-Ohio ESP cases.[17]

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[16] *ESP Order* at 40 (emphasis added) (footnotes omitted).

[17] The Commission's decision in the AEP-Ohio ESP cases was appealed and the parties that have taken the appeals, including IEU-Ohio, are contesting the Commission's approval of AEP-Ohio's POLR charges.

In addition to the POLR charge, AEP-Ohio collects other rates and charges from customers that clearly include compensation for capacity related costs. For example, both OPCo and CSP have in place an Environmental Investment Carrying Cost Rider. These riders allow OPCo and CSP to recover carrying costs that "are necessary to recover the ongoing cost of investments in environmental facilities and equipment that are essential to keep the generation units operating."[18] Clearly, such charges are designed to compensate AEP-Ohio for capacity related costs rather than energy related costs.

As recognized in the December 8 Entry and explained above, the Commission adopted a compensation mechanism for capacity in the ESP Order. Therefore, pursuant to the controlling language in PJM's tariff, Ohio's specified compensation mechanism prevails and AEP-Ohio is precluded from proposing any change to such compensation. .

B. AEP-Ohio's Proposal is Anti-Competitive and Would Unduly Disadvantage CRES Suppliers.

AEP-Ohio has requested that FERC approve an effective date of January 1, 2011 for the formula rate it has proposed to alter the current capacity compensation mechanism. The structure of the formula rate and the requested effective date are designed to ultimately position AEP-Ohio as a monopoly supplier of capacity to any CRES supplier seeking to serve retail customers in the service areas of CSP or OPCo and, in the meantime, muddy the apples-to-apples math relevant to shopping customers. In prosecuting its FERC Application, AEP-Ohio has asserted that FERC

[18] *ESP Order* at 24-28.

has exclusive jurisdiction to address the pricing of capacity for CRES suppliers in Ohio.[19]

Under the FRR Alternative, and only if a state has not required switching customers or the LSE to compensate the FRR entity for its capacity obligations, the LSE must compensate the FRR entity for capacity as specified in Section D.8 of the RAA. However, there is an exception to this general rule:

> Notwithstanding the foregoing, in lieu of providing the compensation described above, such alternative retail LSE may, for any Delivery Year subsequent to those addressed in the FRR Entity's then-current FRR Capacity Plan, provide to the FRR Entity Capacity Resources sufficient to meet the capacity obligation described in paragraph D.2 for the switched load. Such Capacity Resources shall meet all requirements applicable to Capacity Resources pursuant to this Agreement and the PJM Operating Agreement, all requirements applicable to resources committed to an FRR Capacity Plan under this Agreement, and shall be committed to service to the switched load under the FRR Capacity Plan of such FRR Entity. The alternative retail LSE shall provide the FRR Entity all information needed to fulfill these requirements and permit the resource to be included in the FRR Capacity Plan. The alternative retail LSE, rather than the FRR Entity, shall be responsible for any performance charges or compliance penalties related to the performance of the resources committed by such LSE to the switched load. For any Delivery Year, or portion thereof, the foregoing obligations apply to the alternative retail LSE serving the load during such time period. PJM shall manage the transfer accounting associated with such compensation and shall administer the collection and payment of amounts pursuant to the compensation mechanism.[20]

Exercising the option to self-supply capacity resources must comport with the timing of the base residual auctions, which are held three years in advance of the delivery year, and with the submission of FRR capacity plans, which must be submitted to PJM at

[19] On December 17, 2010, AEP filed an Answer in Docket ER11-2183-000 at FERC. In its Answer, AEP argues that Commission action pursuant to the state compensation mechanism provision embodied in PJM's Open Access Transmission Tariff, Attachment D, Schedule 8.1, would usurp FERC's authority and deprive CSP and OPCo of their rights under Section 205 of the Federal Power Act ("FPA"). AEP is incorrect. The Commission's decision regarding compensation for capacity prevails by the terms of PJM's FERC-approved tariff. To the extent that AEP believes this provision is unjust and unreasonable or that its rights pursuant to Section 205 of the FPA have been adversely affected, the proper course of action by AEP is to file a Section 206 complaint at FERC regarding this provision of PJM's tariff.

[20] PJM Interconnection, L.L.C., Rate Schedule FERC No. 44, Original Sheet No. 44 and First Revised Sheet No. 45 Superseding Original Sheet No. 45.

least one month prior to the base residual auction for the delivery year.[21] Consequently, and working backward, LSEs must make the self-supply election more than one month prior to the base residual auction that is held for a delivery year three years into the future.

AEP-Ohio's requested effective date of January 1, 2011 for its capacity-related formula rate proposal would effectively change the capacity compensation from the prevailing price in the base residual auction for the 2010-2011 delivery year to a much higher price that AEP-Ohio alleges is based on the costs of its own generation assets. Given AEP-Ohio's requested effective date for its formula rates, an LSE would have had to elect to self-supply by no later than November 21, 2007 to avoid being captive to AEP-Ohio for capacity if AEP's Application is allowed to go into effect.[22]

AEP's Application proposes a self-reconciling and cost-based compensation mechanism that produces prices that are significantly higher than the capacity-related components of AEP-Ohio's current retail rates and significantly higher than PJM's market-based clearing prices for capacity during the relevant time periods.[23] Because any CRES suppliers operating in AEP-Ohio's service areas will be required to purchase capacity from AEP-Ohio at the higher prices if FERC allows the proposal to go into effect, it will be impossible for CRES suppliers to compete with AEP's SSO. It is IEU-Ohio's view that AEP-Ohio's proposed cost-based capacity compensation mechanism is designed to impose an undue prejudice or disadvantage on CRES suppliers by raising

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[21] PJM Interconnection, L.L.C., Rate Schedule FERC No. 44, Original Sheet No. 42.

[22] PJM maintains a schedule of RPM deadlines (including past deadlines) which is posted on PJM's website at: http://www.pjm.com/markets-and-operations/rpm/rpm-auction-user-info.aspx#Item04.

[23] Application at Attachment B.

their capacity price by 49% to 93% over the prevailing market-based prices[24] for capacity (as reflected in RPM clearing prices) and to chill any customer interest in shopping. Stated conversely, it is IEU-Ohio's belief that AEP-Ohio's proposed cost-based capacity compensation mechanism is designed to provide AEP-Ohio with an undue advantage with regard to competitive electric services. In other words, AEP-Ohio's Application seeks to unlawfully and unreasonably invoke the authority of FERC to, in effect, establish an SSO which violates the comparable and nondiscriminatory requirements in Section 4928.141, Ohio Revised Code.

The anti-competitive effects of AEP's Application are not dependent on FERC's approval of the Application. The mere filing of the Application has created the risk that CRES suppliers will see their margins from retail sales go negative and this risk chills market entry as well as interest in market share expansion. For retail customers, AEP-Ohio's Application complicates the apples-to-apples math that shopping customers use to test shopping opportunities. IEU-Ohio suggests that the market chilling implications of the Application have already damaged emerging competition in the retail market.

AEP-Ohio's interest in "managing" retail competition has been publicly described by AEP during its presentations to the investment community. For example, during AEP's October 19, 2010 earnings call, representatives of AEP stated:

> **Robert P. Powers, President, AEP Utilities**
>
> Okay Joe, let's dig in just a little bit more on something that you alluded to in your comments and that's customer choice in Ohio, what do you see is the opportunities and the challenges of customer choice for Columbus Southern and AEP Ohio?

[24] *Id.*, Column G.

Joseph Hamrock, President and Chief Operating Officer, AEP Ohio

> Sure, sure. Customers have long had choice in Ohio, since Senate Bill 3 passed nearly a decade ago. It actually passed more than a decade ago. The customers have had the opportunity for choice and up until about the midpoint of this year we saw very low switching rates in the Ohio companies, our rates have been low historically and we saw market prices that were well above the tariff rates that we presented.
>
> Of course we all know that's changed this year. We saw low rates of switching through mid year, that started to tick up here in the last quarter or so, but still very low rates. We're at about 2% of our customers migrating away through September, just less than 5% of the load having switched at this point. And we've got projections in the next year that show some increase in that.
>
> But one of the things that our team has done is our customers nearly always reach out to our team. Many of my colleagues have talked about the relationships that we have and customers when presented with these options and these opportunities to switch, always come to us and ask, how should I evaluate this? And we want them to do that in the most informed way possible that includes a look forward. Many of the opportunities that they see today are for prices that will lock them in for two and a half up to three years in some cases and the rates that we have in place expire at the end of next year. So we encourage them to make sure they make an informed decision that they take a look at all of the options that they have, including the tariffs that CSP and OP provide.
>
> And so, we're proactively reaching out to customers, making sure that they're making informed decisions. We think that will help with switching that will be very rational in the near term and will allow to position more competitively in the longer term with those customers.[25]

AEP's Application is not rooted in its desire to advance some important regulatory principle or practice. It is an Application that is rooted, instead, in AEP's desire to fortify its dominant supplier status in Ohio at a time when retail competition beneficial to customers has just started to emerge in the Ohio service areas of AEP-Ohio.

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[25] *In the Matter of the 2009 Annual Filing of Columbus Southern Power Company and Ohio Power Company Required by Rule 4901:1-35-10, Ohio Administrative Code*, PUCO Case No. 10-1261-EL-UNC, IEU-Ohio Exhibit 1 at 16 (transcript of earnings call). The audio recording and presentation slides from the October 19, 2010 earnings call are archived on AEP's website at http://www.aep.com/investors/webcasts (last checked December 8, 2010).

C. AEP Has Not Demonstrated that Changes to the Current Compensation Mechanism are Appropriate.

The December 8 Entry requires CRES suppliers to compensate AEP-Ohio at the prevailing prices for capacity associated with PJM's RPM actions:

> Prior to the filing of this application, the Commission approved retail rates for the Companies, including recovery of capacity costs through provider-of-last resort charges to certain retail shopping customers, based upon the continuation of the current capacity charges established by the three-year capacity auction conducted by PJM, Inc., under the current fixed resource requirement (FRR) mechanism. *In re Columbus Southern Power Company,* Case No. 08-917-EL-SSO; *In re Ohio Power Company, Case* No. 08-917-EL-SSO. *See also, In re Columbus Southern Power Company and Ohio Power Company,* Case Nos. 05-1194-EL-UNC et al. **However, in light of the change proposed by the Companies, the Commission will now expressly adopt as the state compensation mechanism for the Companies the current capacity charges established by the three-year capacity auction conducted by PJM, Inc. during the pendency of this review**.

In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company, Case No. 10-2929-EL-UNC, Entry at 1-2 (December 8, 2010) (emphasis added).

Given the Commission's affirmation that the current POLR charges provide AEP-Ohio with compensation for capacity related costs, it is not clear why the Commission chose in the December 8 Entry to adopt an additional compensation mechanism for AEP-Ohio set equal to the current capacity charges established by PJM's RPM auctions. Additionally, since AEP-Ohio did not provide required information with its Application, AEP-Ohio has presented no evidence to show that the compensation provided by the current mechanism is unjust or unreasonable.

Since AEP-Ohio has obtained and is obtaining compensation for capacity through a Commission-approved mechanism that imposes charges on retail customers, AEP's Application raises questions about what, if any, capacity related compensation it may lawfully obtain from CRES suppliers. On the surface, it appears that AEP-Ohio has been obtaining compensation for capacity from both CRES suppliers and retail customers even though PJM's tariff states that the Commission-approved compensation structure must prevail.

AEP's presentations to the investment community indicate that AEP-Ohio will soon be filing an application for approval of a new SSO. In this filing, AEP-Ohio may propose changes to the currently approved capacity compensation mechanism.

IEU-Ohio believes that answers to some of the questions in the December 8 Entry can be better assembled once AEP-Ohio files its next SSO application.

With regard to the near term and practical negative effects of the Application on shopping, IEU-Ohio believes that the Commission may be able to mitigate some of the negative effects if it directs that any capacity revenue collected by AEP-Ohio pursuant to the Application must be separately accounted for on a customer-by-customer basis and fully netted against the SSO revenue that AEP-Ohio is otherwise authorized to bill and collect from each shopping customer. This approach would result in the Application having a "revenue neutral" effect on shopping customers.

IEU-Ohio also believes that the Application suggests that AEP-Ohio's interests are poorly aligned with the public interest and that it may be difficult for the Commission or any stakeholder to sort things out in a proceeding in which the Commission has simply requested comments. The FERC proceeding may also not provide interested parties with the opportunity to conduct discovery or to engage in the process that is associated with an evidentiary hearing. Accordingly, IEU-Ohio urges the Commission to consider ordering an independent investigation of the management policies and practices of AEP-Ohio that are behind the Application as well as the strategic and other objectives which AEP-Ohio hopes to achieve through the Application.

In the meantime, IEU-Ohio urges the Commission to continue to advocate at FERC in favor of a FERC dismissal of the Application.

III. CONCLUSION

WHEREFORE, for the reasons discussed in these comments, IEU-Ohio requests the Commission find that AEP-Ohio has not demonstrated that any changes to the retail capacity compensation mechanism are appropriate.

Respectfully submitted,

Samuel C. Randazzo

Samuel C. Randazzo (Counsel of Record)
Joseph E. Oliker
McNees Wallace & Nurick LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
sam@mwncmh.com
joliker@mwncmh.com

Attorneys for Industrial Energy Users-Ohio

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 7th day of January, 2011 via first class mail, postage prepaid.

Samuel C. Randazzo

Steven T. Nourse
Senior Counsel-Regulatory Services
American Electric Power
1 Riverside Plaza
Columbus, OH 43215

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

David C. Rinebolt
Ohio Partners for Affordable Energy
231 West Lima St., PO Box 1793
Findlay, OH 45840-1793

Jody Kyler
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad St., 18th Floor
Columbus, OH 43215